

MOHAVE COUNTY ATTORNEY

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WT 02-55

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William J. Ekstrom, Jr.: (928) 753-0770, x-4277
Email: Bill.Ekstrom@co.mohave.az.us

RECEIVED

APR 20 2006

Federal Communications Commission
Office of the Secretary

February 17, 2006

Senator Jon Kyl
7315 North Oracle Road, Suite 220
Tucson, Arizona 85704

**VIA FIRST CLASS MAIL
& VIA FAX to: (520) 797-3232**

and

730 Hart Senate Building
Washington, D.C. 20510

**VIA FIRST CLASS MAIL
& VIA FAX to: (202) 224-2207**

Re: Mohave County's Petition for Clarification or Reconsideration

Dear Jon,

I am writing on behalf of Mohave County to request your support of our Petition for Clarification or Reconsideration pending before the Federal Trade Commission ("FTC") (attached).

Time is of the essence in this matter and any comments, I understand, must be submitted within thirty (30) days of today's date. The interest and support of your office may be pivotal in preventing a tremendous injustice to the citizens of Mohave County.

Since the inception of the Nextel Sprint rebanding project, we have been assured by the company that the over Three Hundred Thousand (\$300,000) Dollar cost of relocating to a new band plan will be paid by Nextel Sprint. Now, at the eleventh hour, they are attempting to back out of that commitment based upon a skewed interpretation of an FCC memorandum, which had nothing to do with our Agreement. This is not only wrong and deceitful, but threatens the vitality of the only free source of television, including national and state-wide news and information, to the over one hundred forty thousand (140,000) Mohave County residents.

No. of Copies rec'd _____
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NO. 6458

SENATOR JON KYL

FEB. 27. 2006 10:48 AM

FEB-17-2006 10:22 PM PRINT TIME FEB. 27. 2:22 PM

RECEIVED TIME FEB. 27. 2:18 PM

Senator Jon Kyl
February 17, 2006
Page 2 of 2

We appreciate any assistance or direction which your office can provide. Your staff may reach me at (928) 753-0770 should you have any questions or they may contact our FCC Counsel, William K. Keene, at (202) 776-5243.

Sincerely,



William J. Ekstrom, Jr.
Civil Deputy County Attorney

WJE/csl

Enclosure (as stated)

PRINT TIME FEB. 27. 2:22PM
FEB-21-2006 10:01

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February 21, 2006

Senator Jon Kyl
7315 North Oracle Road, Suite 220
Tucson, Arizona 85704

**VIA FIRST CLASS MAIL
& VIA FAX to: (520) 797-3232**

and

730 Hart Senate Building
Washington, D.C. 20510

**VIA FIRST CLASS MAIL
& VIA FAX to: (202) 224-2207**

Re: Mohave County's Petition for Clarification or Reconsideration

Dear Jon,

Kindly take note that in our communication of February 17, 2006, we inadvertently referred to the Federal Communications Commission as the Federal Trade Commission. Our Petition is actually pending before the Federal Communications Commissions.

This is for your files. We appreciate your assistance and support.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Ekstrom".

William J. Ekstrom, Jr.
Civil Deputy County Attorney

WJE/csl

NO 6458

SENATOR JON KYL

TOTAL P. 01
FEB. 27. 2006 10:48AM



Federal Communications Commission
Washington, D.C. 20554

April 14, 2006

The Honorable Jon Kyl
730 Hart Senate Office Building
Washington, DC 20515

Dear Senator Kyl:

Thank you for your inquiry of February 27, 2006, in which you forwarded information provided by Mr. William K. Ekstrom, Civil Deputy County Attorney for Mohave County ("Mohave County"). Mr. Ekstrom's letter was in reference to a pending petition that Mohave County filed with the Commission.

Specifically, Mohave County has stated that it is concerned that the Commission's relocation rules for Broadcast Auxiliary Service (BAS) licensees in the 1990-2025 MHz frequency band adopted in its *Report and Order*, *Supplemental Order and Order on Reconsideration* and *Memorandum Opinion and Order* in WT Docket 02-55, the *Fifth Report and Order* in ET Docket No. 00-258, and the *Fourth Memorandum Opinion and Order* in ET Docket No. 95-18 (collectively, "800 MHz Public Safety Proceeding") may adversely impact TV translator relay licensees in the band. Mohave County recently petitioned the Commission to clarify that relay links used by TV translators such as those that rebroadcast distant full-service television stations' signals into Mohave County are eligible for relocation and reimbursement by Sprint Nextel.

The Commission is currently reviewing the Petition for Reconsideration or Clarification filed by Mohave County and discussed by Mr. Ekstrom, as well as filings by other interested parties. These pleadings were submitted in response to the *Memorandum Opinion and Order* adopted on October 3, 2005 in the 800 MHz Public Safety Proceeding (WT Docket No. 02-55 and ET Docket Nos. 00-258 and 95-18).

As background, the rules that the Commission adopted in the 800 MHz Public Safety Proceeding were intended to address the problem of interference to public safety communications in the 800 MHz band. In this proceeding, Sprint Nextel agreed to reconfiguration of the band whereby it surrendered certain spectrum rights and agreed to incur certain costs to relocate others' authorized facilities in the 800 MHz band, in exchange for the use of ten megahertz of spectrum at 1.9 GHz (1910-1915 MHz and 1990-1995 MHz). Because the 1990-1995 MHz band is part of the larger 1990-2025 MHz band used by BAS, the Commission also established procedures for Sprint Nextel's relocation of BAS incumbents in the 1990-2025 MHz band, subject to the conditions and

obligations imposed by the *Report and Order* and subsequent decisions in the 800 MHz Public Safety Proceeding (Mohave County's subject stations currently operate on these frequencies). Among other things, the decision required Sprint Nextel to reimburse the Federal Government for the value of the spectrum it was receiving, less the value of the spectrum it was giving up and any costs it incurred in relocating incumbent licensees – including BAS entities.

For the relocation of incumbent BAS licensees by Sprint Nextel, the Commission allows incumbent BAS facilities to continue to operate on a primary basis until relocated by Sprint Nextel, provided that the receipt date of the BAS licensee's initial application was prior to June 27, 2000. Initial BAS applications filed after June 27, 2000 have been licensed on a secondary basis. The Commission concluded that Sprint Nextel would not be required to relocate secondary operations that, by rule, cannot cause harmful interference to primary operations nor claim protection from harmful interference from primary operations. The decision did not specifically address the status of TV translator stations.

Mohave County's current petition specifically relates to a subsequent decision the Commission made in response to a letter request from Sprint Nextel, the Association for Maximum Service Television, Inc., and the National Association of Broadcasters filed in June 2005 ("June 2005 Letter"). The June 2005 Letter was limited to the specific issue of whether Sprint Nextel should be allowed to obtain credit against its obligations to the Federal Government for the costs of relocating secondary BAS incumbents licensed after June 27, 2000 but before November 22, 2004 (which represents the effective date of the decision in the 800 MHz Public Safety Proceeding). In its *Memorandum Opinion and Order* of October 5, 2005, the Commission, among other things, addressed the June 2005 Letter and allowed, but did not require, Sprint Nextel to relocate these secondary BAS operations, and also allowed Sprint Nextel to obtain credit for these costs against its obligation to the Federal Government. Mohave County's petition for reconsideration relates to the scope of that decision and to which licensees are entitled to relocation and reimbursement, specifically, whether TV translator stations are to be afforded relocation eligibility.

Because Mohave County's request is a pending proceeding, I cannot speak to its merits. I assure you, however, that the Commission will give Mohave County's petition full consideration. I note that we are also in receipt of a letter dated March 22, 2006 from you and Senator McCain concerning this matter. That letter has

already been associated with the docket file of this proceeding. In order to ensure a full and complete record, I will likewise associate a copy of your February 27 letter and this response with the docket.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julius P. Knapp', with a stylized flourish at the end.A small, stylized handwritten mark or initial, possibly 'JPK', located to the left of the typed name.

Julius P. Knapp
Deputy Chief
Office of Engineering & Technology

cc: Jonathan Babbitt
2200 East Camelback Road
Suite 120
Phoenix, AZ 65016